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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/736,533	12/13/2000	Judith N. Nartey	33793US	8271

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EXAMINER

KRUER, KEVIN R

ART UNIT	PAPER NUMBER
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1773

DATE MAILED: 10/20/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/736,533

Applicant(s)

NARTEY ET AL.

Examiner

Kevin R Kruer

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 July 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,6-8,12-14,17-20 and 22-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,6-8,12-14,17-20 and 22-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. The rejection of claims 1, 3-6, 8-10, 12-14, 16-20, and 22-24 under 35 U.S.C. 102(e) as being by Ciocca et al (US 6,517,936 B1) has been overcome by amendment. Specifically, Ciocca does not teach that the linear low density polyethylene layer may be utilized to adhere the laminate to a material.

Claim Rejections - 35 USC § 103

3. The rejection of claims 1, 3-6, 8-10, 12-14, 16-20, and 22-24 under 35 U.S.C. 103(a) as being unpatentable over Ciocca et al (US 6,517,936 B1) in view of Dobreski (US 4,430,457) has been overcome by amendment.
4. The rejection of claims 1, 3-6, 8-10, 12-14, 16-20, and 22-24 under 35 U.S.C. 103(a) as being unpatentable over Ciocca et al (US 6,517,936 B1) in view of Schirmer (US 4,847,148) or Newman Jr. et al (US 3,645,838). lines 28+) has been overcome by amendment.
5. Claims 1, 3-6, 8-10, 12-14, 17-20, and 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP09-314772A (herein referred to as Omori). Omori teaches a multilayer film with an excellent pinhole resistance, transparency, gas barrier properties, and moldability (abstract). The laminate comprises at least three layers. The outermost layer consists of a polypropylene resin and an SEBS block copolymer.

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An intermediate oxygen barrier layer consists of any one of saponified ethylene vinyl acetate, EVOH, vinylidene chloride resin, polyacrylonitrile or unsaturated nitrile resin, or aromatic polyamide resin (abstract). The laminate's innermost layer comprises a seal layer of VLDPE (abstract). The term "VLDPE" includes copolymers having a density of 0.870-0.929g/cm³ comprising ethylene as a principle component and an alpha olefin with a carbon number up to 10 (paragraph 22). The laminate may further comprise an adhesion layer between each layer to strengthen the adhesion between each layer. Useful adhesives include ethylene vinyl acetate, olefin copolymer modified with maleic acid, acrylic acid, methacrylic acid, or anhydrides thereof (paragraph 26). The laminate is melt molded by T-die extrusion or in a circular die (paragraph 28).

Omori teaches that the VLDPE layer may be utilized as a sealing layer paragraph 022), but does not explicitly teach the laminate adhered to a material. However, it would have been obvious to one of ordinary skill in the art to adhere the laminate taught in Omori to a material because Omori discloses that the innermost VLDPE layer is designed to seal to a material during use.

With respect to the limitation that "layer A consists essentially of monovinylarene/conjugated diene block copolymer" in claim 16, the examiner points Applicants' attention to MPEP 211.03. Specifically, the MPEP states that "consisting essentially of " will be construed to be equivalent to "comprising" in the absence of a showing that additional steps and/or components materially change the characteristics of Applicant's invention. There is no such showing on record.

With respect to the "linear low density polyethylene" limitation of claim 1, the examiner takes the position that Omori's definition of VLDPE encompasses the art definition of LLDPE. NOTE: Applicant does not define LLDPE in their original disclosure, so the examiner will interpret the term in view of its art-accepted definition. LLDPE is understood in the art to be "a copolymer of ethylene with one or more comonomers selected from C4-C10 alpha olefins and that has a density of 0.912-0.928g/cc (as evidenced by US 4,882,894; col 9, lines 31+). Since the VLDPE copolymers described in Omori encompass LLDPE, Omori reads on the claimed invention.

Response to Arguments

Applicant's arguments with respect to claims 1, 3-6, 8-10, 12-14, 16-20, and 22-24 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin R Kruer whose telephone number is 703-305-0025. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Thibodeau can be reached on 703-308-2367. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-5408 for regular communications and 703-305-3599 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

KRK

krk
October 5, 2003



Paul Thibodeau
Supervisory Patent Examiner
Technology Center 1700